



United States Government
OFFICE OF THE EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
1015 HALF STREET SE
WASHINGTON, DC 20570

Re: Station Casinos, LLC d/b/a NP Red Rock LLC
Case 28-RD-292426

ORDER

On May 4, 2022, the Employer and the Petitioner filed timely requests for review of the Regional Director's decision to dismiss the RD petition due to pending unfair labor practice charges. The International Union of Operating Engineers, Local 501 (Union) represented by attorney David Rosenfeld, filed a timely "Response to Request for Review" of the Employer's request for review (Response), and an "Opposition to Request for Review" of the Petitioner's request for review (Opposition).

On May 17, 2022, the Employer filed a Motion for Special Leave to File a Reply and Request for Sanctions.¹ In this motion, the Employer argues that Mr. Rosenfeld filed a response on the Union's behalf that is a "mindless rant" against the Employer's parent organization's two principals. The Response, according to the Employer, makes "no attempt to counter – or to even address – the fact and legal based points raised in the Employer's May 4, 2022 Request." The Employer requests that the Response be stricken and that Mr. Rosenfeld "be required to issue a retraction to the vulgar descriptions of an excrement filled dungeon where he hopes" the two individuals he named in his Response will be imprisoned. Additionally, the Employer requests that the Board suspend Mr. Rosenfeld from practice for an extended period, or in the alternative, prohibit him from representing clients on any Board litigation involving the Station Casinos organization.

We have construed the Employer's motion as a motion to strike the Union's Response, and request for sanctions against Mr. Rosenfeld. We grant the Employer's motion to strike the Response. The Union's Response to the Employer's request for review does not touch upon any of the legal or factual arguments raised in the Employer's request for review. Instead, it appears, as the Employer argues, to be simply a vivid personal attack. The only reference to the request for review in the Response is a statement that the "request for review should be denied."²

¹ Under Sec. 102.67(f) of the Board's Rules and Regulations, no reply to the opposition may be filed except upon special leave of the Board in a representation proceeding.

² On May 25, 2022, the Union filed a "Notice of Filing Corrected Response to Request for Review," which the Office of the Executive Secretary rejected for being filed out of time, and because it was unclear as to what the Union was attempting to correct. Thereafter, Mr. Rosenfeld filed a letter dated June 1, 2022 attempting to clarify that the Union inadvertently filed the "Response to Request for Review" without attachments appended to it. Accordingly, the Union requested that the Board accept the Notice, and



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The Employer also requests that Mr. Rosenfeld be suspended from Board practice for an extended period, or in the alternative, that he be prohibited from representation of clients on any Board litigation involving the Station Casinos organization. Mr. Rosenfeld was recently referred to the General Counsel for investigation under Section 102.177 of the Board's Rules and Regulations for his conduct in *National Association of Broadcast Employees and Technicians Local 51 (ABC)*, 371 NLRB No. 15, fn. 5 (2021) and *UFCW, Local 951, 1036, and 7*, 16-CB-003850 (9/13/2021).

Consistent with our decision in *National Association of Broadcast Employees and United Food and Commercial Workers*, we conclude that it is appropriate to refer the actions described in this matter to the General Counsel for investigation under Section 102.177 of the Board's Rules and Regulations

IT IS ORDERED that the alleged misconduct by David Rosenfeld, as set forth above, is referred to the Investigating Officer, the Associate General Counsel, Division of Operations Management, pursuant to Section 102.177(e) of the Board's Rules and Regulations.

Dated, Washington, D.C., June 29, 2022.

By direction of the Board:

/s/ Farah Z. Qureshi
Deputy Executive Secretary

append the attachments to the Response. Because, however, we strike the Union's "Response to Request for Review," the Union's request to correct the Response, i.e., add attachments, is moot.